

**ASSEMBLY BILL**

**No. 436**

**Introduced by Assembly Member Plescia**

February 15, 2005

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An act to amend Section 14105.48 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 436, as introduced, Plescia. Medi-Cal: speech devices.

Existing law provides for the Medi-Cal program, administered by the department, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons.

Under existing law, hearing aids, durable medical equipment, and medical supplies are covered benefits under the Medi-Cal program, subject to utilization controls.

Existing law requires the department to establish a list of maximum allowable product costs for medical supplies.

Under existing law, the department may enter into exclusive or nonexclusive contracts on a bid or negotiated basis with manufacturers, distributors, dispensers, or suppliers of appliances, durable medical equipment, medical supplies, and other product-type health care services for the purpose of obtaining the most favorable prices to the state and to assure adequate quality of the product or service, with certain exceptions.

This bill would require the payment of a specified percentage of the manufacturer's suggested retail price for reimbursement under the Medi-Cal Program for augmentative and alternative communication or speech generating devices.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 14105.48 of the Welfare and Institutions Code is amended to read:

14105.48. (a) The department shall establish a list of covered services and maximum allowable reimbursement rates for durable medical equipment as defined in Section 51160 of Title 22 of the California Code of Regulations and the list shall be published in provider manuals. The list shall specify utilization controls to be applied to each type of durable medical equipment.

(b) Reimbursement for durable medical equipment, except wheelchairs and wheelchair accessories, shall be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, or (2) an amount that does not exceed 80 percent of the lowest maximum allowance for California established by the federal Medicare ~~program~~ *Program* for the same or similar item or service, or (3) the guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3 plus a percentage markup to be established by the department.

(c) Reimbursement for wheelchairs and wheelchair accessories shall be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, or (2) an amount that does not exceed 100 percent of the lowest maximum allowance for California established by the federal Medicare ~~program~~ *Program* for the same or similar item or service, or (3) the guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3 plus a percentage markup to be established by the department.

(d) Reimbursement for all durable medical equipment billed to the Medi-Cal program utilizing codes with no specified maximum allowable rate shall be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, or (2) the guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3 plus a percentage markup to be established by the department, or (3) the actual acquisition cost plus a markup to be established by the department, or (4) the manufacturer's suggested retail purchase price reduced by a

1 percentage discount not to exceed 20 percent, or (5) a price  
2 established through targeted product-specific cost containment  
3 provisions developed with providers.

4 (e) Reimbursement for all durable medical equipment supplies  
5 and accessories billed to the Medi-Cal program shall be the lesser  
6 of (1) the amount billed pursuant to Section 51008.1 of Title 22  
7 of the California Code of Regulations, or (2) the acquisition cost  
8 plus a 23 percent markup.

9 (f) Any regulation in Division 3 of Title 22 of the California  
10 Code of Regulations that contains provisions for reimbursement  
11 rates for durable medical equipment shall be amended or  
12 repealed effective for dates of service on or after the date of the  
13 act adding this section.

14 (g) Notwithstanding Chapter 3.5 (commencing with Section  
15 11340) of Part 1 of Division 3 of the Government Code, actions  
16 under this section shall not be subject to the Administrative  
17 Procedure Act or to the review and approval of the Office of  
18 Administrative Law.

19 (h) The department shall consult with interested parties and  
20 appropriate stakeholders in implementing this section with  
21 respect to all of the following:

22 (1) Notifying the provider representatives of the proposed  
23 change.

24 (2) Scheduling at least one meeting to discuss the change.

25 (3) Allowing for written input regarding the change.

26 (4) Providing advance notice on the implementation and  
27 effective date of the change.

28 (i) The department may require providers of durable medical  
29 equipment to appeal Medicare denials for dually eligible  
30 beneficiaries as a condition of Medi-Cal payment.

31 (j) *Notwithstanding any other provision of law, reimbursement*  
32 *for augmentative and alternative communication or speech*  
33 *generating devices shall be the following:*

34 (1) *One hundred percent of the Medicare fee schedule for the*  
35 *applicable code when the manufacturer's suggested retail price*  
36 *is greater than or equal to the applicable Medicare fee schedule.*

37 (2) *Ninety-nine percent of the manufacturer's suggested retail*  
38 *price when the manufacturer's suggested retail price is less than*  
39 *the applicable Medicare fee schedule.*

- 1     (3) *Eighty-three percent of the manufacturer's suggested retail*
- 2     *price for device mounts and accessories.*